

**Sanitary Code
Of
Schoharie County
Article 1**

Effective June 1, 1979

**Schoharie County Health Department
276 Main Street
Schoharie, New York 12157**

**Kathleen Farrell Strack, M.S., R.N.
Public Health Director**

Revision I 7/16/2007

**Sanitary Code of Schoharie County
Article 1**

Definitions and General Provisions

Issued By Schoharie County Board of Health
Schoharie, New York

June 1, 1979

Revised 7/16/2007

Amended August 28, 2007

1. Title.
2. Definitions.
3. Sanitary Code. Where In Force.
4. Enforcement by Local Board of Health.
5. Enforcement Authority of Board of Health.
6. Special Provisions.
7. Permits Generally.
8. Issuance of Licenses.
9. Fees.
10. Right of Entrance and Inspection.
11. Sanitary Code. Enforcement. Adjudications. Review.
12. Interference with Notices.
13. Effective Date.
14. Separability Clause.

SECTION 1. TITLE.

- 1.1 The rules and regulations herein contained shall be known as the Sanitary Code of the Schoharie County Health District.

SECTION 2. DEFINITIONS.

- 2.1 Whenever used in the Sanitary Code of the Schoharie County Health District, unless otherwise stated or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereinafter set forth or indicated:

- 2.1.1 “Health District” shall mean the Schoharie County Health District established pursuant to the provisions of Section 340 of the New York State Public Health Law.
- 2.1.2 “Department of Health” shall mean the Schoharie County Department of Health established under former Article 3, Section 20-b Local Laws of the Schoharie County Health District.
- 2.1.3 “Board of Health” shall mean the Board of Health of the Schoharie County Health District.
- 2.1.4 “Public Health Director” shall mean the Public Health Administrator (or designated representative thereof) of the Schoharie County Department of Health who, with appropriate medical and other technical consultation, as approved by the New York State Department of Health, serves as primary administrator of all health programs in the Schoharie County Health District; provided, however, in the event that the County of Schoharie establishes the position of County Health Commissioner, then, in such event, and upon the effective date of the creation of such position, the term “Public Health Director” shall mean the County Health Commissioner of the Schoharie County Department of Health.
- 2.1.5 “Sanitary Code” shall mean and comprise the Rules and Regulations now or hereafter formulated, promulgated, and adopted by the Board of Health of Schoharie County Health District pursuant to Section 347 of the New York State Public Health Law.
- 2.1.6 “New York State Sanitary Code” shall mean the sanitary code (Title 10NYCRR) established by the Public Health Council of the State of New York.
- 2.1.7 “Person” shall mean an individual, group of individuals, partnership, firm, corporation, association, county, city, town or village or improvement district.

SECTION 3. SANITARY CODE. WHERE IN FORCE.

- 3.1 The Board of Health of Schoharie County is hereby authorized and empowered to make and promulgate administrative rules and regulations necessary to enforce the New York State Public Health Law, the New York State Sanitary Code, and the Schoharie County Sanitary Code. All applicable provisions of these Laws/Codes shall be in force throughout the Schoharie County Health District.
- 3.2 The provisions of the New York State Sanitary Code and any additional regulations which may be added to it from time to time are hereby incorporated as part of this Sanitary Code of the Schoharie County Health District.

SECTION 4. ENFORCEMENT BY LOCAL BOARDS OF HEALTH.

- 4.1 It shall be the duty of the Board of Health in the Schoharie County Health District, existing pursuant to law, to enforce the provisions of the New York State Public Health Law, the New York State Sanitary Code, and the Schoharie County Sanitary Code.

SECTION 5. ENFORCEMENT AUTHORITY OF THE BOARD OF HEALTH.

- 5.1 The Board of Health is hereby authorized and empowered to make and promulgate all rules and regulations to enforce each and every regulation of the New York State Public Health Law, the New York State Sanitary Code, and the Schoharie County Sanitary Code.

SECTION 6. SPECIAL PROVISIONS.

- 6.1 The regulations of this Sanitary Code shall be supplemental to the regulations, rules and orders of the New York State Public Health Law, the New York State Sanitary Code, the New York State Penal Law, and other New York State Laws relating to public health.
- 6.2 Any Town, or Village may adopt and enforce additional ordinances or enforce existing ordinances relating to health and sanitation provided that such ordinances are consistent with the New York State Public Health Law and the New York State Sanitary Code.
- 6.3 Where applicable, the Public Health Director, or designated representative thereof, may require a "Certificate of Occupancy" issued by the applicable municipality before a permit is issued by the Health Department.

SECTION 7. PERMITS GENERALLY.

7.1 Applications.

- 7.1.1 All applications for permits or written approval herein required shall be made upon forms prescribed and furnished by the Schoharie County Department of Health, shall be signed by the applicant who shall be the person, or legally authorized agent thereof, responsible for compliance with the conditions of the permit or approval applied for. Such application shall contain or have attached thereto such data, information, documents and plans as may be required.

7.2 Permits; Nontransferable.

- 7.2.1 A permit issued to a particular person or for a designated place, purpose, or vehicle shall not be valid for use by any other person or for any other purpose, or vehicle than that designated therein.

7.3 Permits; Conditions.

7.3.1 Such permits or written approvals may contain general and specific conditions and every person who shall have obtained a permit or written approval, as herein required, shall conform to the conditions prescribed in said permit or written approval and to the provisions of the Sanitary Code. Each such permit shall expire on the date stated on the permit or if no date is stated, one year from its date of issuance, and may be renewed or extended by the Public Health Director or designated representative thereof, or may be suspended or revoked for cause by the Public Health Director or the Board of Health, after due notice and hearing, or temporarily suspended pending hearing. Notwithstanding the foregoing provisions, in the event that any of the terms, conditions and provisions of a permit issued, or written approval granted, is or may subsequently be less restrictive than the New York State Public Health Law or the New York State Sanitary Code, then in such event, the applicable provisions of the New York State Public Health Law, or the New York State Sanitary Code, which are more restrictive, shall govern.

7.4 Permits; Property of Schoharie County Department of Health.

7.4.1 All permits issued hereunder shall remain the property of the Schoharie County Department of Health and shall, on demand, be surrendered to an authorized representative of the Schoharie County Department of Health, whenever any such permit expires, is suspended or revoked.

7.4.2 Permits shall be posted conspicuously on the premises for which they are issued, and shall be carried on the vehicle for which they are issued, and shall be produced on request of the Public Health Director or designated representative thereof.

SECTION 8. ISSUANCE OF LICENSES.

8.1 Nothing herein contained shall be construed to restrict or abrogate the legal authority of any town or village in the Health District to adopt and enforce additional ordinances or to enforce existing ordinances relating to the regulation, control, and/or issuance or any license, and/or renewal and/or revocation thereof, and to charge and collect a fee therefore.

SECTION 9. FEES.

9.1 Fees may be imposed for services rendered by the Schoharie County Department of Health under the Schoharie County Sanitary Code, in accordance with such schedule or schedules as may be adopted by the Schoharie County Board of Health.

9.2 All fees required by the Schoharie County Department of Health for permits, licenses, or filing shall be made payable to the Schoharie County Treasurer.

9.3 Failure to pay an imposed fee, as described in Section 9.1, above, shall constitute a violation of the Schoharie County Sanitary Code.

SECTION 10. RIGHT OF ENTRANCE AND INSPECTION.

10.1 All premises covered by the regulations of this Sanitary Code, located in the Schoharie County Health District, shall be subject to inspection by the Public Health Director, or designated representative there, and if any violation of the Sanitary Code exists on the premises, any permit granted by the Public Health Director, or designated representative thereof, may be suspended or other determination made in regard thereto, by the Board of Health, after a hearing thereon in accordance with the provisions of this Sanitary Code.

10.2 No person shall refuse to allow the Public Health Director, or designated representative thereof, to inspect fully any and all premises and no person shall molest or resist the Public Health Director, or designated representative thereof, in the discharge of their duties.

SECTION 11. VIOLATIONS AND PENALTIES.

11.1 Pursuant to the provisions of Sections 309 and 347 of the New York State Public Health Law, any non-compliance or non-conformance with any provision of this Sanitary Code, or of a rule or regulation, duly made hereunder, shall constitute a violation.

11.2 Pursuant to the provisions of the New York State Public Health Law, the Board of Health may; charge the Public Health Director with the enforcement of the Public Health Laws within said County.

11.3 Pursuant to the provisions of the Public Health Law, the Board of Health may prescribe standardized procedures for the investigation and adjudication of alleged violations of the public health law so to promote the efficient resolution of the same while comporting with due process of law.

11.4 Investigations and adjudications

11.4.1 The Director or authorized representative may investigate any complaint, circumstance or alleged violation or the public health laws by conducting any informal or formal hearing thereon. Any such hearing shall be on written notice thereof, served personally or by registered or certified mail directed to the person or persons concerned. If such notice is served personally, it shall be served not less than ten (10) nor more than twenty (20) days prior to the return date. If such

notice is mailed, it shall be deposited not less than fifteen (15) nor more than twenty-five (25) days prior to the return date. The notice shall specify the time and place of the hearing, the purpose thereof, and the particular provisions of law involved.

11.4.2 If the hearing is to be an informal one, the notice shall so state but shall advise the respondent that he or she may be accompanied by an attorney. At any such hearing, oaths shall not be administered nor shall testimony be recorded verbatim. At the conclusion thereof, the person conducting such hearing shall make and file a report thereof with the Director, who shall either make a final decision and order thereon or set the matter down for a formal hearing.

11.4.3 If the hearing is to be a formal one, the notice shall so state and shall advise the respondent that he or she may be accompanied by an attorney. The notice shall advise the respondent that he or she has the right to present evidence; the right to examine and cross-examine witnesses; and the right to compel their attendance through subpoena issued by an attorney or the Director, who is hereby authorized to issue the same. In no event, however, shall any such subpoena issue outside the jurisdiction of the Board of Health nor shall any witness be interrogated or compelled to testify upon matters not related to the public health. On the return date of the hearing, witnesses shall be sworn and testimony shall be recorded. Such testimony shall be transcribed within a reasonable time after the conclusion of the hearing. The hearing officer shall thereafter prepare findings of fact and conclusions and shall file a report thereof with the Director, who shall make a final decision and order thereon, which shall be filed in the department and a copy thereof served on all respondents.

11.4.4 Nothing herein contained shall preclude the Director or authorized representative from taking such other action or pursuing such other remedy, judicial or otherwise, as may be expedient to investigate, resolve or abate an alleged violation of the Public Health Laws, nor shall anything herein contained require that a hearing be conducted thereon.

11.5 Review.

11.5.1 Any final order or determination or other final action by the Director of Public Health shall be subject to review by the Board of Health. The validity or reasonableness of any Code, Rule or Regulation of the Board of Health shall be subject to review as provided in Article 78 of the Civil Practice Law and Rules.

SECTION 12. INTERFERENCE WITH NOTICES.

- 12.1 No person shall interfere with, or obstruct, any health authority in the posting of any placard in accordance with the requirements of the New York State Public Health Law, or the New York State Sanitary Code, on any place or premises.
- 12.2 No person shall remove, mutilate, or conceal any notice or placard of the Schoharie County Department of Health, or Schoharie County Board of Health, posted in or on any premises or public place except by permission of the Public Health Director or designated representative thereof.
- 12.3 In the event of any such placard being removed, mutilated or concealed, it shall be the duty of the occupant, owner or person in charge of the premises, whereupon such placard was posted, to immediately notify the Public Health Director of such fact.

SECTION 13. EFFECTIVE DATE.

- 13.1 This Sanitary Code and any amendments or additions thereto as well as every rule, regulation, order and direction adopted by the Board of Health shall take effect on the respective date of filing of such items with the New York State Department of Health.

SECTION 14. SEPARABILITY CLAUSE.

In the event that any section, paragraph, sentence, clause or phrase of this Sanitary Code is declared unconstitutional or invalid for any reason, the remainder of said Sanitary Code Shall not be affected thereby and shall remain in full force and effect.